

ASSEMBLY BILL

No. 1184

Introduced by Assembly Member Koretz

February 22, 2005

An act to add Section 19851.2 to the Government Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1184, as introduced, Koretz. Nurses and certified nurse assistants: overtime.

Existing law establishes the workweek of state employees at 40 hours, and the workday at 8 hours, and further provides that it is the policy of the state to avoid the necessity for overtime work by state employees whenever possible.

This bill would provide that a nurse, defined as a registered nurse or a licensed vocational nurse, or a certified nurse assistant (CNA), employed by the State of California in a state facility, as defined, may not be compelled to work in excess of the regularly scheduled workweek or work shift, except under certain circumstances, including the occurrence of a catastrophic event in a state facility. The bill would prohibit a state facility from coercing a nurse or CNA to work overtime, or from retaliating or discriminating against the nurse or CNA for refusing to work overtime. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 19851.2 is added to the Government Code, to read:

19851.2. (a) As used in this section:

(1) "Nurse" means all classifications of registered nurses represented by State Bargaining Unit 17, or the Licensed Vocational Nurse classifications represented by State Bargaining Unit 20.

(2) "CNA" means all Certified Nursing Assistant classifications represented by State Bargaining Unit 20.

(3) "Facility" shall mean any mental hospital, youth or adult correctional facility, developmental center, veteran's home, school, or worksite in which a nurse or CNA works as an employee of the state.

(b) No facility may require a nurse or CNA to work in excess of a regularly scheduled workweek or work shift. Any nurse or CNA may volunteer or agree to work hours in addition to his or her regularly scheduled workweek or work shift but the refusal by a nurse or CNA to accept those additional hours shall not be grounds for discrimination, dismissal, discharge or any other penalty or employment decision adverse to the nurse or CNA.

(c) This section shall not apply in any of the following situations:

(1) To any nurse or CNA participating in a surgical procedure until that procedure is completed.

(2) If a catastrophic event occurs in a facility and both of the following factors apply:

(A) The catastrophic event results in such a large number of patients in need of immediate medical treatment that the facility is incapable of providing sufficient nurses or CNAs to attend to the patients without resorting to mandatory overtime.

(B) The catastrophic event is an unanticipated and nonrecurring event.

(d) Nothing in this section shall be construed to affect the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code), the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions

- 1 Code), or a nurse's duty under the standards of competent
- 2 performance.

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